

SENATE BILL REPORT

ESHB 2018

As Reported by Senate Committee On:
State Government, Tribal Relations & Elections, March 29, 2019

Title: An act relating to harassment and discrimination by legislators and legislative branch employees.

Brief Description: Concerning harassment and discrimination by legislators and legislative branch employees.

Sponsors: House Committee on State Government & Tribal Relations (originally sponsored by Representatives Morgan, Jinkins, Harris, Bergquist, Appleton, Cody, Tharinger, Pollet, Fey, Tarleton, Goodman, Pettigrew, Doglio, Senn, Lovick, Dolan, Kilduff, Ryu, Thai, Stanford, Lekanoff, Wylie, Slatter, Hansen, Shewmake, Robinson, Chapman, Santos, Walen, Chopp, Fitzgibbon, Hudgins, Leavitt, Macri, Valdez, Irwin, Reeves, Pellicciotti, Frame and Ormsby).

Brief History: Passed House: 3/07/19, 98-0.

Committee Activity: State Government, Tribal Relations & Elections: 3/22/19, 3/29/19 [DPA-WM].

Brief Summary of Amended Bill

- Prohibits harassment or sexual harassment of another person by legislators and legislative branch employees under the Ethics Act.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Zeiger, Ranking Member; Bailey, Hasegawa and Takko.

Staff: Samuel Brown (786-7470)

Background: Ethics Act. The Ethics in Public Service Act (Ethics Act) prohibits state officers and state employees from using their public employment for personal gain or private advantage, or creating the appearance of such impropriety. Prohibited activity under the Ethics Act prohibited activities includes using one's position to secure special privileges or

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exemptions for oneself or others, except as required to perform duties within the scope of employment.

The Ethics Act is enforced by the state ethics boards. Any person may initiate a complaint. State employees who file complaints have whistleblower protections. Each branch of government has its own board that investigates, conducts hearings, and, if necessary, issues civil sanctions for its respective employees' violations of these ethics rules.

In January 2019, the Legislative Ethics Board issued an opinion concluding that engaging in inappropriate and harassing communications with staff does not constitute using one's position to secure special privileges in violation of the Ethics Act.

Harassment Policies. State agencies are required to develop and disseminate their own policies to define and prohibit sexual harassment in the workplace. Agencies must also include procedures that describe how the agency will address concerns, including appropriate sanctions and disciplinary action. Employees must also receive training and education to prevent and eliminate sexual harassment.

Although the Legislature is not subject to that requirement, each chamber has a policy for respectful or appropriate workplace behavior that prohibits discrimination and harassment based on a person's protected status, abusive or offensive behavior, and bullying regardless of the basis for the conduct, and retaliation.

Summary of Amended Bill: Harassment Prohibited. Harassment of another person by a legislator or legislative branch employees violates the Ethics Act.

Definitions. "Harassment" is defined as conduct that has the purpose or effect of interfering with the person's work performance, creates a hostile, intimidating, or offensive work environment, or constitutes sexual harassment.

"Sexual harassment" is defined as unwelcome or unwanted sexual or romantic conduct or communication:

- to which submission is required as a condition of employment;
- that factors into decisions affecting an individual's employment;
- that unreasonably interferes with a person's work performance; or
- that creates a hostile, intimidating, or offensive work environment.

Rules Required. The Legislative Ethics Board must adopt rules to coordinate its investigation of a complaint alleging harassment or sexual harassment with any other investigations into whether the same alleged conduct violates the legislative code of conduct or respectful workplace policies.

EFFECT OF STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS COMMITTEE AMENDMENT(S): Harassment Prohibited. Engaging in behavior that constitutes harassment is a special privilege in violation of the Ethics Act.

Definitions. Examples of conduct constituting sexual harassment are removed.

Rules Required. The requirement that the Legislative Ethics Board adopt rules to coordinate its investigation of a complaint alleging harassment or sexual harassment with any other investigations into whether the same alleged conduct violates the legislative code of conduct or respectful workplace policies is removed.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The MeToo movement has revealed how pervasive sexual harassment is, even at the Legislature. While the Legislature has made strides in improving workplace policies, more action is needed. The lack of Ethics Act protection is a glaring problem for staff or anyone who does business before the Legislature. Workplace harassment is extremely damaging—it can lead to anxiety, depression, poor self-image, isolation, even suicide.

Persons Testifying: PRO: Representative Melanie Morgan, Prime Sponsor.

Persons Signed In To Testify But Not Testifying: No one.